



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

**Additional Material
Agenda Item #8**

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: November 23, 2014
Re: Additional Information for Agenda Item #8

In the statute changes in the meeting packet, we included a proposal concerning how to apply contribution limits to candidates who are not enrolled in a political party. The current contribution limits are

Governor	\$1,500 per election
County office	\$750 per election
Legislative office	\$375 per election
Municipal office	\$750 per election

In the *Woodhouse* decision, the court found that it violated equal protection principles for donors to Eliot Cutler to be limited to giving \$1,500 whereas donors to Paul LePage or Michael Michaud could give \$1,500 for the primary election and another \$1,500 for the general election.

Our packet included a statutory proposal that if an unenrolled candidate is running against a party candidate who is on the ballot for a primary and general election, the unenrolled candidate would have two contribution limits – similar to the party candidate. The advantage of this proposal is that it is simple, keeps the structure of the current law (*i.e.*, per-election limits), and is analogous to the federal law that is in effect for congressional candidates. We acknowledge one potential policy objection to the proposal: an unenrolled candidate could, theoretically, stockpile contributions during the primary election period (gaining an advantage for the general election), while party

candidates in the same race would need to exhaust their primary election funds in order to win their party's nomination.

The Commission staff has not researched in depth how contribution limits are applied to unenrolled candidates in other states. We have scanned a compilation of contribution limits posted on the website of the National Conference of State Legislatures (NCSL).¹ If you would like, the staff could:

- outline some options in writing for the Joint Standing Committee on Veterans and Legal Affairs (VLA). These could be included with the written testimony for your agency bill, or in a packet of information that we anticipate providing to the VLA Committee in January; or
- present some options to you at your December or January meeting after conducting further research and/or soliciting comments.

After reviewing the NCSL compilation, there appear to be a number of alternatives:

- (1) Instead of limiting the amount that a donor may give to a candidate *per election*, the limits could be set *per year* (Massachusetts), or over a two-year period (Minnesota).
- (2) Limits could be set *per election cycle* (i.e., two, three, or four years – depending on the term of the office). (Maryland)
- (3) Contribution limits could continue to apply per election, but if a candidate is unopposed in a primary election, the primary and general elections could count as a single election for purposes of the contribution limits. (Florida)
- (4) The State could enact a lower contribution limit for a candidate who is unopposed in a primary election. Unenrolled candidates have the same limit for the primary election period as unopposed primary candidates.

Thank you for your consideration of this item.

¹ http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2012-2014.pdf